

LS 5932

9 May 1955

MEMORANDUM FOR: Director of Training

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SUBJECT: Claim for Reimbursement - [REDACTED]

1. This memorandum is in response to your recent oral request for the opinion of this office respecting the validity of subject claim.

2. The relevant facts are as follows:

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a. [REDACTED] was hired by CIA [REDACTED] on 1 October 1951. At that time he was residing in Chicago, and when he was ordered to report to Washington, D. C., TDY, en route to overseas post of duty, he was requested to leave his personal and household effects in Chicago. He was ordered to proceed from Washington to [REDACTED] when he arrived in [REDACTED], his assignment to [REDACTED] was cancelled, and he was assigned to the Training Division of the [REDACTED] Mission. He was provided with furnished quarters in [REDACTED], as a result of which he was informed that the bulk of his effects would have to remain in Chicago. A partial shipment of effects was made from Chicago to [REDACTED] Mr. [REDACTED] returned to Washington on 2 December 1952 and was terminated as a contract agent on 23 February 1953. He was appointed a staff employee with first post of duty in Washington, D. C. on 24 February 1953 and was reassigned to [REDACTED] (outside of Washington, D. C.) on 10 May 1953. [REDACTED] states that upon his return to the United States he planned to ship to Washington his effects previously left in Chicago, but was instructed to leave both them and the effects shipped from [REDACTED] in storage until he received his permanent assignment. He shipped his Chicago effects to [REDACTED] on 27 April 1953 and his Washington effects to [REDACTED] on 5 May 1953.

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b. [REDACTED] contract provided for the shipment of household effects, in the following paragraph relating to travel, quoted in pertinent part (obtained from [REDACTED] SCAFS, 25 April 1955):

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"You will also be paid for expense incurred in the transportation of your household effects and of your personal automobile to and from your overseas post of duty... All monies paid under this paragraph will be subject to payment and accounting in substantial compliance with Government regulations."

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c. [REDACTED] claims reimbursement for the following:

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(1) Cost of transporting stored effects from Chicago to [REDACTED]

(2) Cost of storing effects (shipped from overseas) in Washington, D. C. from 5 January 1953 to 5 May 1953;

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- (3) Cost of transporting effects (shipped from overseas) from dock side to storage (Washington, D. C.) and from storage to [REDACTED]

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3. a. [REDACTED] (3 December 1952), § 1-A, provides:

"Travel and transportation expenses and expenses incident thereto, including those incurred in the movement of dependents, household goods and personal effects, may be paid to or on behalf of employees in accordance with the provisions of Public Law 600 - 81st Congress, Public Law 92 - 81st Congress, Public Law 830 - 81st Congress, Agency and other appropriate legislation, regulations issued thereunder, the Standardized Government Travel Regulations, the Foreign Service Regulations, and as specified in Agency Regulations."

b. General Counsel's Opinion 55-8, dated 22 March 1955, interprets Section 8 of Executive Order 9805, dated November 25, 1946, as amended by Section 8 of Executive Order 10196, dated December 20, 1950, concluding that on a permanent change of station an employee may ship all or a portion of his effects between points other than his last or new station, provided that the cost to the Government does not exceed the cost of shipment in one lot by the most economical route from the last official station to the new, and provided that the total weight shipped does not exceed the applicable weight allowance.

4. The issues are:

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- a. Can [REDACTED] be reimbursed for his claims?

b. If any reimbursement is authorized, should it be made on an actual expense or a computed basis?

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5. Had [REDACTED] been in staff employee status at the time he was transferred from [REDACTED] to Washington:

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a. He could be reimbursed for claim (1), under General Counsel's Opinion 55-8, supra;

b. He could be reimbursed for claim (2), under Section 20 of Executive Order 9805, for the first sixty days of storage;

c. He could be reimbursed for claim (3), under Section 19 of Executive Order 9805;

d. He could be reimbursed for all these claims on an actual expense basis, under 27 Comp. Gen. 737, dated June 1, 1948, (interpreting Section 17 of Executive Order 9805,) which states that "transfer" as used therein "relates to the officer or employee who has been ordered or directed to make a permanent change of station . . . and not to the movement of household goods and personal effects," so that reimbursement for any shipment of goods incident to an employee's transfer to or from points outside the continental United States, even

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if the shipment is between points within the continental United States "should be made upon the basis of expenses actually and necessarily incurred within the limitations prescribed by applicable regulations"; provided, that the cost to the Government could not exceed the cost of shipment of all of subject's effects (within the applicable weight allowance) in one lot by the most economical route from his station in [REDACTED] to Washington, D. C.

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e. [REDACTED] 10 February 1953, in effect when [REDACTED] made shipments of effects from Chicago to [REDACTED] and from Washington to [REDACTED], provides that reimbursement for travel and transportation allowable under that regulation may be undertaken within one year from the effective date of the transfer. GSO Field Fiscal [REDACTED] in effect when [REDACTED] travelled and made a shipment of effects from [REDACTED] to Washington and placed them in storage in Washington has no such limitation, as a result of which Section 5 of Executive Order 9805, providing a two-year period, would govern. In any case, all transportation was completed within the required period.

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f. An intervening termination, at least if for the convenience of the Government (as seems to have been the case here) would not derogate from the rights listed above, which he had already acquired, which had not expired, and which he had not encumbered. (In support of this view, cf. [REDACTED] 10 February 1953, which permits transportation of effects within one year after resignation, retirement or separation; [REDACTED] 27 November 1953, which contains the same provision; and Change 1 to [REDACTED] 7 May 1954, which reduces the period to 90 days.)

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6. The Agency is in no way precluded from providing, by regulation or by the terms of a contract, that a contract agent shall have greater or lesser rights to reimbursement for travel and transportation expenses than a staff employee, but when, as here, specific addenda or limitations are lacking, the general rights granted in the contract with respect to travel and transportation can be interpreted only by referral to Agency and Government regulations and practices relating to staff employees, especially [REDACTED] and the sources cited therein.

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7. It is the opinion of this office that [REDACTED] if his claims are otherwise in order, and if the above-stated applicable restrictions on weight, length of storage period, and constructive-cost "capping" are complied with, is entitled to reimbursement of the claims submitted, on an actual expense basis.

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8. All papers submitted are returned herewith.

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Enclosure

OGC:FPB:afb:ml

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subject legal

signer

Office of the General Counsel